

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

TYCO ELECTRONICS CORPORATION
Employer

and

Case 05-RC-016471

INTERNATIONAL UNION, UNITED
AUTOMOBILE, AEROSPACE, & AGRICULTURAL
IMPLEMENT WORKERS OF AMERICA, UAW
Petitioner

ORDER

Employer's Request for Review of the Regional Director's Decision and Direction of Election is denied as it raises no substantial issues warranting review.¹ In denying review, we agree with the Regional Director that the product engineering designers, material planners, manufacturing and product engineers, and manufacturing and product engineering technical associates are properly excluded from the unit. We find that these employees share a community of interest separate and apart from the petitioned-for production and maintenance employees, and thus that their inclusion in the unit is *not* required. See *Audiovox Communications Corp.*, 323 NLRB 647 (1997). In light of these community of interest factors, summarized below, we find it unnecessary to pass on the Regional Director's finding that the disputed employees are technical employees who should be excluded from the unit on that basis.²

As found by the Regional Director, these employees, unlike the production and maintenance employees, are salaried and have control over their breaks and lunch periods. They earn significantly higher wages and work in a separate space from the production and maintenance employees. They perform different job functions from the unit employees, and their jobs require a range of education and skill performed mostly in an office setting. Unlike the petitioned-for employees, who are equally divided among

¹ Employer's Request for Review of the Regional Director's Decision and Direction of Election raises a substantial issue solely with respect to the unit placement of Product Engineering Parts Clerk Deborah Rhoads, Materials Associate Anne Thomas, Environmental Safety and Health Coordinator Ronald Lebo, and Manufacturing Engineer Technical Associate Angela Dodson. We shall accordingly permit these individuals to vote by challenged ballot. If those ballots are not determinative, the Regional Director shall issue the appropriate certification. If those ballots are determinative, the Regional Director shall transfer this proceeding to the Board in Washington, D.C. for resolution of their status.

² Member Hayes finds that, with the exception of the 4 employees identified in fn. 1 *supra*, the Employer's Request for Review fails to state a basis for granting review of the Regional Director's findings that the other employees whose exclusion from the unit is disputed are technical employees. He does not agree with his colleagues' alternative rationale for denying review. See, e.g. *Wheeling Island Gaming, Inc.* 355 NLRB No. 127 at slip op. 1 fn.2 (2010).

three shifts, the majority of these disputed employees work on the first shift. The disputed employees do not share common supervision or managers with the petitioned-for employees.

Further, as found by the Regional Director, the interchange between the production and maintenance employees and the employees in dispute is not so frequent and substantial as to *require* that they be included in one unit. The evidence of temporary interchange is minimal, and although many of the disputed employees originally worked as production employees, evidence of such permanent transfers is a less significant indication of actual interchange than temporary transfers. *Red Lobster*, 300 NLRB 908, 911 (1990).

WILMA B. LIEBMAN, CHAIRMAN

CRAIG BECKER, MEMBER

BRIAN E. HAYES, MEMBER

Dated, Washington, D.C., November 16, 2010.